... unites Ontario's municipalities

Report Series 1991

91-17 "DISENTANGLING THE PROVINCIAL-MUNICIPAL RELATIONSHIP"

Submission to the Provincial Cabinet

Association of Municipalities of Ontario

September 1991

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Association of Municipalities of Ontario is a non-partisan voluntary organization united to promote the values of the municipal government system and the status of the municipal level of government as a vital and essential component of the total inter-governmental framework of Ontario and Canada.

The Association acts as the collective voice of Ontario's municipal governments and is organized to accomplish through cooperation and coordination, what the majority have neither the time nor the resources to do individually.

The Association represents some six hundred and seventy-five (675) municipal governments throughout Ontario. The governing body is composed of some eighty (80) municipal elected and appointed officials, who in turn represent a wide-range of municipal government interests.

The following Sections and affiliated municipal professional associations form an important part of the Association's structure and therefore, play an important part in its activities in terms of the Board of Directors, program and policy development:

Association Sections

* County and Regional Section
* Large Urban Section
* Northern Ontario Section
* Rural Section
* Small Urban Section

Association Affiliates:

* Association of Municipal Clerks and Treasurers of Ontario
* Association of Municipal Tax Collectors of Ontario
* Municipal Engineers Association
* Ontario Municipal Administrators Association
* Ontario Municipal Personnel Association
* Ontario Municipal Social Services Association
* Society of Directors of Municipal Recreation of Ontario
* Municipal Finance Officers Association of Ontario

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I. INTRODUCTION

The Association of Municipalities of Ontario (AMO) would like to express its appreciation for the opportunity to meet with the Premier and members of Cabinet. Ontario faces many challenges as we move into the 1990s. Meeting these challenges successfully to best serve the interests of our common electorate - the citizens of Ontario - will require a spirit of cooperation and partnership, and an ongoing process of dialogue and consultation between the Province and municipalities.

> "No partnerships are more important than those with local governments. We intend to work with them so that together we can serve the people of Ontario."
>
> *(Speech from the Throne, Province of Ontario, November, 1990)*

> "When I talk about partnership, it's not just a buzz-word, it's a reality."
>
> *(Premier Bob Rae, address to the County and Regional Conference, October, 1990)*

AMO is pleased to be able to report to the Premier that to date his government has been as good as his word. Through its 1991 unconditional grant and budget announcements, the Provincial Government has acknowledged that municipalities are not just another interest group, but a duly elected level of government - a level of government that requires a degree of certainty in provincial transfers if it is to meet the needs of the communities it serves. In recognition of this renewed partnership, AMO has been working with government ministries to meet a wide range of social and environmental challenges. For example, municipal representatives have been working closely with staff from the ministries of Municipal Affairs and Environment to find ways of improving the system of waste management in the Province. More recently, an AMO/Community and Social Services/OMSSA Implementation Committee was established to ensure that the "Back on Track" reforms adopted in the 1991 Provincial Budget are implemented in a manner that would be most beneficial to both the clients and providers of social services. The list is impressive, and growing constantly.

And yet, as one examines the list of issues that the Province and municipalities have consulted on during recent months, two things becomes clear: the policy setting, provision and financing of provincial and municipal services are grossly "entangled", and this entanglement has a profound negative impact on government accountability, economy, efficiency and effectiveness.

The Disentanglement Process

On August 20, 1991, in recognition of this problem, the Province announced the formation of a Steering Committee to coordinate a process of provincial-municipal "disentanglement".

> "I think it is important for us to get on with the job of making it clear to citizens who is paying for what and who is responsible for raising the money for whatever services are being provided."
>
> (*Premier Bob Rae, Address to the Rural Section Conference, February, 1991)*

Because of the significance of this process for both levels of government, and because the process could eventually affect virtually every government ministry, AMO would like to take this opportunity to place the process in its proper context, to set out the key components of the process, and to demonstrate why the process is so deserving of each and every ministry's support.

II. THE CONTEXT

Constitutional Changes

Canada has embarked on a route toward profound and far-reaching political and societal changes, as evidenced in the current debate on constitutional reform. Premier Rae has expressed the need for a rethinking of provincial and federal powers toward a disentanglement of responsibilities in order to overcome costly duplications in service provision. This search for a new model of federalism at the national level is paralleled by the quest for a fairer and more rational system of roles and responsibilities between provincial governments and the municipal sector. Recognizing this linkage, the Federation of Canadian Municipalities passed a resolution at its recent annual conference in St. John's, Newfoundland, demanding direct participation in the constitutional process.

The current disentanglement process is perhaps the forum within which municipalities and the Province can begin to negotiate the status of Ontario's municipalities and the need for formal recognition and protection of the fiscal autonomy of municipal government in provincial legislation.

A Decade for Reform

The Association of Municipalities of Ontario indicated in its 1991 pre-budget consultation brief that "this decade constitutes a critical time period for an examination and re-organization of the fundamental roles and responsibilities assumed by the Province of Ontario and Ontario's municipalities within the framework of fiscal federalism."

In the past, the Association has fervently lobbied for provincial-municipal finance reform - particularly since the last comprehensive review of the public finance system in Ontario dates back to the Smith Report in 1967.

In more recent times, the Association has either generated or responded to a number of policy reports which can be seen as attempts to provide blueprints for fiscal reform for either a specific service area or a particular form of funding (e.g. AMO's Response to the Report of the Provincial-Municipal Social Services Review (PMSSR), Transitions: Report of the Social Assistance Review Committee, Long-Term Care Reform, New Dimensions, etc.). In addition, AMO has recently been consulted by the Province on ways to reform the financing of police services, the provision of water and sewer services, and other areas.

While such financial reforms could be implemented in an ad hoc fashion, truly accountable, responsive and efficient government can only be achieved by placing these decisions within an overall context of provincial-municipal financial reform.

The Fair Tax Commission

The establishment of the Fair Tax Commission can be perceived as yet another significant milestone toward achieving a fairer system of public finance in the Province of Ontario - a system designed to balance the needs of disadvantaged societal groups with the need of Ontario businesses to remain competitive in the global marketplace.

However, the determination of fair fields of taxation cannot take place without a corresponding review of exactly what services those fields of taxation are required to support.

For example, in its response to the Report of the Advisory Committee to the Minister of Municipal Affairs on the Provincial-Municipal Financial Relationship, 1991, AMO has said it does not endorse direct municipal access to the income tax. However, that recommendation is based on the assumption that income redistributive services (e.g. welfare) will ultimately be funded solely by the Province. Should the Province be unwilling to take over 100 percent of welfare funding as part of the disentanglement process, AMO may have to reexamine that position.

III. WHY DISENTANGLEMENT?

The term disentanglement, initially defined as a structural arrangement whereby "the level of government primarily responsible for managing a program should be held accountable for that program and contribute to its funding" (New Dimensions, 1990), has since come to stand for the broader comprehensive re-organization of the provincial-municipal financial partnership based upon a set of rational decision criteria or philosophical principles. In its Report released on March 21, 1990, the Advisory Committee to the Minister of Municipal Affairs on the Provincial-Municipal Financial Relationship has presented a conceptual framework for a "disentangled" (or reformed) finance system between the Province of Ontario and the municipal sector.

Philosophical Principles for the Realignment of Roles and Responsibilities

In New Dimensions, the Association of Municipalities of Ontario argued that a reform of the provincial-municipal partnership needs to work toward the goal of establishing clarity in intergovernmental relations:

> "There should be a clear understanding ... of the functions and responsibilities of each level of government ... AMO recognizes that certain functions and programs are best delivered and financed at the provincial level in order to achieve equity in service across the Province and to realize economies of scale. However, there are some functions and programs that are best delivered at the local level. The Association believes that these locally delivered programs should be municipally administered with a degree of control and discretion by the municipality."

The Advisory Committee Report sets out six principles for determining whether the policy setting/management, delivery and funding of a service should be provincial, municipal or shared - whether the service is income redistributive, whether it produces spillovers, which level of government can produce the service most economically, which level can deliver the service most efficiently, whether there is a need for uniform standards, and the level at which service provision will foster accountability.

The Association of Municipalities of Ontario is satisfied that these six philosophical principles are appropriate in establishing this clarity. However, without minimizing the tremendous accomplishment of the Advisory Committee in addressing the present complexities and pitfalls of the provincial-municipal finance system, AMO recognizes that the Advisory Committee Report constitutes merely a single building block in the larger disentanglement process. Ongoing political consultations and technical information interchanges need to take place between the Province of Ontario and Ontario's municipalities in order to further refine and expand upon the reform proposals advanced by the Advisory Committee.

To this end, it is useful to highlight some of the Report's key recommendations with regard to the following issues:

- Special Purpose Bodies and Accountability
- Education Financing
- Revenue Sharing
- Clearly Defined Taxation Powers
- Infrastructure Financing

Special Purpose Bodies and Accountability

In its report, Accountability and Special Purpose Bodies: The Example of District Health Councils, 1991, the Association of Municipalities of Ontario supported the "elimination of statutory special purpose boards, commissions, committees and authorities with governing responsibilities for their function and operation assigned directly to the appropriate municipal council".

This recommendation is based on the rationale that provincially mandated special purpose bodies contravene the principle of political and fiscal accountability to the extent that, in many instances, these bodies lack majority municipal representation and yet can requisition financial support from the municipality without the final sanction of council.

One of the primary examples of this problem of fiscal and political accountability is the composition of local police services boards:

> "As long as the Provincial Government appoints the majority of members on municipal police services boards, the Province should assume the cost of police services. AMO can only agree to municipal funding of police services if police services boards either become committees of council or if the majority of members on municipal police services boards are appointed by municipal councils."
>
> *(Commentary, AMO Ad Hoc Task Force on Security Services, 1991)*

Other areas of concern include district health councils, library boards, and children's aid societies. The resolution of the question of special purpose body accountability must be a central component of the disentanglement process.

Education Financing

The Advisory Committee Report calls for a basic review of education funding in the Province of Ontario and an increased financial contribution by the Provincial Government to the education system.

In the 1988 Provincial Budget submission and the policy report on Education Funding in Ontario, 1988, AMO proposed that the Provincial Government ultimately assume 100 per cent of total education expenditures for elementary and secondary schools. The underlying rationale for this position lies in the consideration that education contributes to the general advancement and well-being of society. It is thus inappropriate to finance the costs of education using property tax revenues, as this type of expenditure bears no direct relationship to the value of property. Furthermore, education costs have risen dramatically over the past years with the introduction of new programs, the acquisition of new technology and the reduction in class sizes. This escalation in school board expenditures continues to exert undue pressure on the limited municipal tax base.

> "New Democrats propose raising the provincial share of education costs to 60 per cent over 5 years, providing a solid base for better education system and lifting some of the load off property taxes."

> "We want to reverse the punishing increases in property taxes which hit seniors and low-income people especially hard."
>
> *(Agenda for People, New Democratic Party, 1990)*

AMO agrees with the government's view on this issue, and recommends that disentangling education funding from the municipal tax base be an integral part of the larger reform process designed to re-align the roles and responsibilities between the Province of Ontario and local government.

Revenue Sharing

In 1973, the Province of Ontario agreed to increase transfer payments to municipalities at the same rate as the growth rate of provincial revenues. "The Edmonton Commitment," as it is known, was in place for only two years.

Since that time, AMO has lobbied the Provincial Government on numerous occasions for the establishment of a new revenue-sharing agreement. In New Dimensions, the Association argued that "the property tax must be augmented by a stable and consistent transfer payment system. The transfer payment system must reflect the sharing of roles and responsibilities. Consequently, our transfer payment system should not be regarded as "grants" or "gifts" but sharing in revenues to fulfil the goals and objectives of the programs."

The Association advanced a similar proposal in its 1991 pre-budget consultation brief:

> "The Association of Municipalities of Ontario requests that the Province of Ontario support the exploration of alternative sources of revenues and the establishment of a revenue-sharing act as necessary revenue generating mechanisms for the municipal sector. It is imperative that municipalities be granted access to new sources of revenues designed to bridge the gap between municipal fiscal capacity and aggregate municipal expenditures."

A revenue sharing agreement of this type would not be unique to Ontario. Revenue sharing agreements are currently in place in four provinces (British Columbia, Nova Scotia, Manitoba and Saskatchewan) and the Yukon.

AMO endorses the development of a revenue sharing arrangement as set out in the Advisory Committee Report in principle, and requests that the Province enter into discussions with AMO regarding the type and amount of provincial tax revenues which could be included in a revenue-sharing formula.

Clearly Defined Taxation Powers

The establishment of clear fields of taxation for both the municipal and provincial governments constitutes a fundamental cornerstone of any "disentangled" provincial-municipal finance system. AMO believes that political and fiscal accountability of municipal elected officials can only be achieved in the context of a taxation system which institutes a strict linkage between revenue raised from the municipal tax base and priorities established by municipal councils. This rationale is supported in New Dimensions:

> "The principle of political accountability was clearly enunciated in the 1976 Report of the Commission of the Reform of Property Taxation in Ontario which concluded that the property tax base was an appropriate means of defraying costs which remain under a measure of local control. For example, funding for a service should not be based on the municipal property tax if the municipality is strictly the administrative agent for a service which is mandatory and strictly regulated by the provincial level of government. Therefore, there must be a logical relationship between the amount of municipal control in providing a service and the degree to which the municipal property tax base supports that service."

Furthermore, an acknowledgment of clearly defined taxation powers for both levels of governments fosters municipal autonomy by allowing municipal councils to respond to local needs as they see fit.

As stated earlier, the establishment of the Fair Tax Commission is a significant milestone toward achieving a fairer system of public taxation in Ontario, and municipalities look forward to working with the Commission towards that end.

Infrastructure Financing

The financing of public infrastructure has been, and continues to be, one of the most significant issues facing all levels of government. Providing municipalities with the flexibility to enter into innovative asset management arrangements and public/private sector co-ventures, as recommended in the Advisory Committee Report, would assist municipalities in dealing with increased public demand for infrastructure improvements in such areas as transportation, water and sanitary sewer facilities, police and fire stations, municipal homes for the aged, cultural, recreational and educational facilities.

On a related matter, AMO has repeatedly underscored the need for a reformed system of municipal investment and borrowing. For example, in its pre-budget consultation brief the Association encouraged the Provincial Government to re-introduce Bill 229 which received first reading on June 26, 1990. Bill 229 represents the cumulative efforts of a joint committee of provincial representatives from the ministries of Municipal Affairs and Treasury and Economics, senior members of the Investment Dealers of Ontario, and four municipal representatives who reviewed existing legislation dealing with municipal investing and borrowing powers over a three-year period. This proposed piece of legislation would allow municipalities to borrow in the most cost-effective manner, invest for maximum returns commensurate with security of capital, and reduce administrative procedures.

AMO urges the government to reintroduce legislation on municipal investment and borrowing, and would be pleased to engage in discussions with the Province of Ontario to develop enabling legislation to allow for innovative assets management and increased usage of public/private co-ventures within the context of the Municipal Act and the Planning Act.

IV. BENEFITS OF DISENTANGLEMENT

The ultimate goal of disentanglement is a division of service management, delivery and funding responsibilities which gives each level of government clear responsibility for specific services, and the authority and financial capacity to effectively perform its role. Among the benefits of such an arrangement are:

Enhanced Priority Setting Capability

Disentanglement would allow municipalities to set priorities based on the needs of the local community. Funding decisions would be based on those needs, and not on changes in provincial funding policy. Municipalities would be able to plan for the future, knowing they will be able to control their programs over time, without changes being mandated by the Province. Similarly, provincial ministries would be able to establish their own priorities without having to try to determine what percentage of their resources will be spent on matching funds for municipal programs.

Improved Long-Term Fiscal Capacity

The objective of disentanglement is not a net shift of costs from one level of government to another. The objective is to ensure that roles and responsibilities are allocated to the appropriate level of government, together with the financial resources required to ensure that each level of government has the financial capacity to carry out their assigned roles. Over the long term, this balance of responsibilities and funding is much more likely to be achieved if the number of shared programs (within which municipalities must increase their funding to match changes in program criteria, and the Province must increase it's funding in response to municipal demand) is limited.

Improved Effectiveness and Efficiency in Service Delivery

One of the objectives of disentanglement is to assign responsibility for each service to the level of government that can manage and deliver the service more effectively and efficiently. While there are other factors to consider in assigning service responsibility, to the extent that greater efficiency and effectiveness can be achieved, both levels of government, and ultimately the taxpayer, will benefit.

Improved Accountability to the Taxpayer

Perhaps the most significant benefit of disentanglement would be the improved accountability of both the municipal and provincial levels of government to the taxpayer. Municipalities and the Province would be directly accountable for the provision of specific services. This would lead to significant benefits in terms of a clear public understanding of what services each level of government provides, and a corresponding improvement in the responsiveness, effectiveness and efficiency of the services provided.

V. IMPLEMENTING THE DISENTANGLEMENT PROCESS

At the time of writing this brief, the Association of Municipalities of Ontario had entered into negotiations with the Province of Ontario to examine the most appropriate way of embarking on the path of fiscal reform. Although the Province and AMO had not yet reached agreement on operational decisions such as the exact structure of the disentanglement process, the time-frame for the process and the possible starting points for negotiations, it is assumed that those details will have been worked out prior to the meeting with Cabinet.

> "The realignment of responsibilities between the two levels of government is a complicated and emotional process. The diversity of the municipal sector means that different municipalities will be affected very differently by any proposed re-alignment of responsibilities".
>
> *(Ontario Municipal Administrators Association, Response to the Advisory Committee Report, 1991)*

The municipal sector is a diverse collection of municipal types, sizes, and fiscal capacities. Disentanglement will almost certainly mean a redistribution of resources among municipalities. Some will be better off, others will be worse off. Nevertheless, the potential benefits of the process are such that municipalities are willing to face those risks.

In so doing, however, the Association of Municipalities of Ontario would like to receive assurance from the Province with respect to the following outcomes of the disentanglement process.

RECOMMENDATION 1

That municipalities which experience negative net financial impacts due to disentanglement will receive transitional financial assistance during the re-organization of the financial partnership.

RECOMMENDATION 2

That, in embarking on the disentanglement process, the Provincial Government will state its commitment to begin the implementation of a new provincial-municipal financial arrangement within its present term of office.

AMO also recognizes that any modifications to the current provincial-municipal finance system may require far-reaching legislative changes. The Association is concerned that succeeding governments may in fact undo some of the progressive changes achieved in the process of disentanglement. Consequently, AMO argues that the disentanglement process will need to run parallel to a process designed to define and operationalize the constitutional status of Ontario's municipalities.

RECOMMENDATION 3

That the Province undertake discussions with AMO with a view to defining and operationalizing the constitutional status of Ontario's municipalities within the larger framework of a renewed Canadian federalism.

VI. INTERIM MEASURES

AMO is well aware that it may be some time, perhaps even years, before the results of the disentanglement process are implemented. We cannot stop financing and providing services until those changes can take place. AMO therefore makes the following recommendations with regard to interim provincial-municipal financial arrangements.

RECOMMENDATION 4

That the Provincial Government provide a uniform, across-the-board increase in unconditional grants at least equal to the rate of inflation for the 1992 fiscal year.

RECOMMENDATION 5

That conditional grants be announced as a total package, and that the conditional and unconditional grants be announced by November 15, 1991 for the 1992 fiscal year.

RECOMMENDATION 6

That all decisions concerning changes to the funding arrangements for any provincial or municipal services which have an impact on municipalities be linked to the disentanglement process, and that, to this end, all Cabinet submissions affecting municipalities include a statement of municipal financial impact.

In making these recommendations, the Association recognizes that work on certain critical issues, particularly in the area of waste management, must proceed. The Provincial Government has announced its plans to make several changes regarding waste management in the coming months. These include its proposed changes to the Waste Management Master Plan process, and legislative changes to allow municipalities the authority they need to carry out the waste management activities which the Province is requiring of them. The government is also continuing its work to change the Environmental Assessment process.

RECOMMENDATION 7

In beginning the work on disentanglement, AMO urges the Provincial Government not to delay changes in the waste management and environmental areas, but to proceed with these changes in parallel with the disentanglement process.

VII. CONCLUSION

The Ontario Municipal Administrators Association (OMAA), in its response to the Advisory Committee Report, neatly summarized the essence of the need for disentanglement:

> "The issue of disentanglement is truly about the taxpayer at the municipal and provincial level, who deserves less confusion and ambiguity in the governments which he/she finances. Who deserves simpler government with a clarity of purpose. Who deserves effectiveness and efficiency in the delivery of services. Who deserves and is demanding clear administrative and political accountability for the use of his/her money."

The Association of Municipalities of Ontario supports the disentanglement process as a means of restoring the public's confidence in the clarity, accountability and efficiency of both the municipal and provincial levels of government, and respectfully requests the Province's full and complete cooperation in the pursuit of these goals.

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